

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

IN RE: Bard IVC Filters Products Liability
Litigation,

No. MDL 15-02641-PHX-DGC

Lisa Hyde and Mark E. Hyde, a married
couple,

No. CV-16-00893-PHX-DGC

Plaintiff,

ORDER

v.

C. R. Bard, Inc., a New Jersey corporation;
and Bard Peripheral Vascular, Inc., an
Arizona corporation,

Defendants.

The parties have submitted deposition and trial excerpts for the Court's review. This order includes the Court's ruling on objections contained in some of these excerpts. The order will identify objections by the number of the transcript page on which they appear. If more than one objection appears on a page, the order will either identify the line on which the objection starts or, if the ruling is the same for all objections on the page, will simply identify the page. Where an objection is sustained, the order will identify the page and lines that should be omitted, but if no lines are identified, the objection is sustained with respect to all designated testimony on that page. The Court notes that some of the objections in these transcripts are very confusing, with multiple

1 colors, no indication of which party is making which objection, and some apparent
2 references to prior Court rulings without explanation. The Court has done its best to
3 understand what the parties are asserting on these pages, and has no time for the parties to
4 redo the submissions.

5 A. Daniel Orms.

- 6 1. 24 – overruled.
- 7 2. 138-39 – overruled.
- 8 3. 146 – overruled.
- 9 4. 147 – overruled.
- 10 5. 176-78 – overruled.
- 11 6. 222-24, 230-31 – overruled.
- 12 7. 241 – overruled.
- 13 8. 282-83 – overruled.
- 14 9. 284-86 – overruled.

15 B. Christopher Ganser.

- 16 1. 59 – no testimony designated.
- 17 2. 61 – overruled.
- 18 3. 63 – overruled.
- 19 4. 65 – overruled.
- 20 5. 67 – overruled.
- 21 6. 69-71 – overruled.
- 22 7. 76 – overruled.
- 23 8. 78-79 – overruled.
- 24 9. 81-82 – overruled.
- 25 10. 86-87 – sustained. Hearsay.
- 26 11. 94-95 – overruled.
- 27 12. 96 – overruled.
- 28 13. 128 – overruled.

- 1 14. 133 – overruled.
- 2 15. 134 – overruled.
- 3 16. 135:15 to 137:11 – sustained. Rule 602.
- 4 17. 140:19 to 141:10 – sustained. Rule 602.
- 5 18. 159 – overruled.
- 6 19. 170 – overruled.
- 7 20. 208:12-22 – sustained, otherwise overruled.
- 8 21. 209 – overruled.
- 9 22. 237-38 – overruled.
- 10 23. 244 – overruled.
- 11 24. 246-47 – overruled. Questions call for his own knowledge.
- 12 25. 253:7 to 254:16 – sustained. Rule 602.
- 13 26. 258 – overruled.
- 14 27. 259 – overruled.
- 15 28. 260-61 – overruled.
- 16 29. 268-69 – overruled.
- 17 30. 280-81 – overruled.
- 18 31. 294 – overruled.
- 19 32. 298 – no testimony designated.
- 20 C. John DeFord.
- 21 1. 55:6 to 56:1 – sustained.
- 22 2. 93 – overruled.
- 23 3. 116 – sustained.
- 24 4. 117:2 to 122:6 – if Defendants stand by their objection to evidence of
- 25 Recovery cephalad migrations deaths (an objection the Court has
- 26 sustained), then none of this testimony should be presented. It all concerns
- 27 those deaths, and permitting Dr. DeFord’s long narratives outside of that
- 28 context would be unfair to Plaintiffs.

- 1 5. 129-30 – overruled, but exclude “and patients’ lives were being saved”
2 at 130:18-19).
- 3 6. 133:7 to 134:23 – withdrawn by Defendants.
- 4 7. 135-36 – sustained given Court’s ruling on cephalad migration deaths.
- 5 8. 137:14 to 138:11 – withdrawn by Defendants.
- 6 9. 138:13 – overruled.
- 7 10. 139:2 to 141:5 – overruled.
- 8 11. 219-20 – overruled.
- 9 12. 226 to 227:10 – overruled.
- 10 13. 227:12 to 227:2 – overruled. 227:3-12 withdrawn by Defendants.
- 11 14. 228:14 to 230:4 – overruled.
- 12 15. 230:4 to 231:17 – overruled.
- 13 16. 237:5-22 – overruled.
- 14 17. 237:23 to 238:12 – Plaintiffs object to their own designation for most of
15 this question and answer. Sustained.
- 16 18. 238:13-22 – overruled.
- 17 19. 238:23 to 239:5 – Plaintiffs object to their own designation. Sustained.
- 18 20. 239:6 to 240:19 – overruled.
- 19 21. 240:20 to 241:18 – overruled.
- 20 22. 242:16 to 244:1 – overruled.
- 21 23. 278 – Court stands by its prior ruling.
- 22 24. 278:21 to 279:19 – sustained. This testimony essentially opines that the
23 FDC ensures safety and efficacy in the 510(k) process, evidence that risks
24 confusing the jury to an extent that substantially outweighs the probative
25 value. Rule 403.
- 26 25. 280:14 to 281:4 – same.
- 27 26. 281:16 to 282:3 – Plaintiffs can play all or none of this question and
28 answer, but cannot in fairness eliminate the second half of the answer.

1 Plaintiffs' choice.

2 27. 282-83 – no objection.

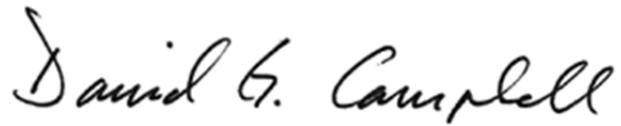
3 28. 317 to 318:13 – overruled.

4 29. 318:18 to 319:20 – overruled.

5 30. 325-26 – overruled.

6 31. 395-96 – sustained. This testimony – like some other failure-to-warn type
7 testimony the Court has excluded in this and previous orders – goes to a
8 duty to warn, which is not at issue. The Court has not excluded testimony
9 on actual warnings given (or not given) by Defendants in light of
10 Defendants' intention to argue that product warnings and physician
11 common knowledge are to be considered in deciding whether the product
12 was not reasonably safe.

13 Dated this 13th day of September, 2018.

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17 David G. Campbell
18 Senior United States District Judge
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